IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL WRIT PETITION NO.4791 OF 1993

The National Textile Corporation
(S.M.) Ltd. Petitioner

Vs.

The Bombay Electric Supply and
Transport Undertaking & anr. Respondents

None for petitioner.

Mr.H.Toor i/b. M/s.Crawford Bayley & Co. for respondent nos.1 and 2.

CORAM: B.H.MARLAPALLE & D.B.BHOSALE,JJ.

March 07, 2006.

P.C.

. None appears for the petitioner. The learned counsel for the Respondent No.1 states that the subject premises have already been taken possession of by the respondent no.1 on or around 25th February 1999 on account of the failure of the petitioner to comply with the order passed by this Court. Vide interlocutor order dated 6/4/1995 interim relief was granted subject to the condition that the petitioner would pay to the 1st respondent compensation at the rate of Rs.20/- per sq.ft. for the period from 1st November 1991 to 31st March 1995 within a period of

six weeks. Thereafter Civil Application No.1582 of 1992 came to be moved before this Court by the Respondent No.1 praying for vacating the interim order dated 6/4/1995 on account of non-compliance of the said order. This Court by the order dated 1/4/1997 modified the earlier order dated 6/4/1995 stating that if the petitioners fail to pay compensation at the rate of Rs.20/- per sq.ft. exclusive of the taxed and other outgoings on due dates and committed two defaults, the interim relief granted would stand automatically vacated. As noted earlier even this order was not complied with and, therefore, the respondent no.1 has already taken over the subject premises.

. Under the circumstances, the petitioners do not seem to be keen in getting the petition adjudicated on merits. Hence the petition requires to be dismissed for non-prosecution.

. The petition is dismissed for non-prosecution. Rule discharged and the costs levied by this Court in the order dated 1/4/1997 shall be recoverable by the respondent no.1.

. Original Side Appeal No.190 of 1994 be listed before the appropriate Bench.

(D.B.BHOSALE,J.) (B.H.MARLAPALLE,J.)